Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Requests of US WEST Communications, Inc. for Interconnection Cost Adjustment Mechanisms	)	CC Docket No. 97-90 CCB/CPD 97-12
	)	
	)	

REPLY COMMENTS BY THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES IN SUPPORT OF THE PETITION FOR PREEMPTION

Pursuant to the Public Notice released March 4, 1997, in the above docket ("US WEST ICAM Petition;" DA 97-469), the Association for Local Telecommunications Services ("ALTS") hereby replies to comments opposing the petition for declaratory ruling and contingent petition for preemption.

I. ILECS CAN USE ONLY THE RATE MECHANISMS SPECIFIED BY SECTIONS 251 AND 252 TO RECOVER ANY COSTS FROM CLECS FOR INTERCONNECTION ARRANGEMENTS.

The oppositions filed by GTE, SWB-Pacific, and Bell Atlantic-NYNEX in this proceeding insist on misconstruing the underlying nature of the US WEST ICAM Petition filed by ELI, McLeod, and NEXTLINK. First, each of the opposing comments portrays the petition as an improper attempt to confer pricing authority upon the Commission under Sections 251 and 252, citing to the pending stay entered by the Eighth Circuit in Docket No. 96-3321 (SWB-Pacific at 2-3; BA NYNEX at 1-3; GTE at 10-11). Second, each of the opposing comments insists that ILECs are

entitled to recover all the costs imposed by new entrants seeking interconnection under these provisions, and cite in support several portions of the Commission's decision implementing Sections 251 and 252 (SWB-Pacific at 4-6; BA-NYNEX at 3-4; GTE at 5-9).

But neither of these contentions has any bearing on the real issues raised by the pending petition. Nothing in the petition asks the Commission to interfere with any pricing decision made by a state when dealing with interconnection requests under Sections 251 and 252 since entry of the Eighth Circuit's stay. Similarly, nothing in the petition asks the Commission to alter any of the decisions it made in its August 8, 1996, decision concerning calculation of the interconnection costs to be borne by CLECs, in the event the Eighth Circuit upholds its jurisdiction.

What the petition really seeks -- and the only thing the petition seeks -- is recognition of the fact that CLECs seeking interconnection under Sections 251 and 252 can only be charged for the costs of that interconnection by means of the cost recovery mechanisms provided in those sections. Congress carefully crafted in Sections 251 and 252 the manner in which CLECs could request interconnection arrangements, specified the pricing standards that would control those arrangements, and formulated a comprehensive plan of mediation, arbitration, agency review, and court review, to insure those pricing standards would

be fully vindicated. The opposing comments recognize the exclusive authority of these sections (see, e.g., SWB-Pacific at 4), as does the Eighth Circuit's stay, which speaks only of "approving or disapproving the agreements ... or through compulsory arbitration" in speaking of the states' pricing authority over CLEC interconnection (Order granting stay at 13; cited by SWB-Pacific at 8).

It would completely distort Congress' statutory scheme if either the state or Federal jurisdictions could drastically alter the careful balance struck by Congress by taking a "second bite" at whatever ratemaking decisions ultimately emerge from enforcement of Sections 251 and 252, whether that environment is constructed by the states or by the Commission. At bottom, the preemption petition seeks only what should be obvious: the costs of CLEC interconnection can only be recovered from CLECs through Sections 251 and 252 mechanisms such as interconnection agreements, and statements of generally acceptable terms and conditions.

Allowing any recovery mechanisms outside the Section 251 and 252 structure to recover costs created by Section 252 interconnection requests would not only contradict the logic and language of these sections, it would handicap the competitive entry contemplated by Congress. The TSLRIC costing principles that the Commission and most states use as pricing principles are intended to send efficiency-maximizing signals to potential

interconnectors about their decisions to enter or not enter. Allowing either the states or the Commission to impose additional costs on CLECs for Sections 252 interconnection outside the pricing principles and recovery mechanisms of Sections 251 and 252 would inevitably retard the vigorous introduction of local competition envisioned by Congress. Accordingly, the petition should be granted.

II. THE ILECS' CONTENTIONS ABOUT WHICH PARTICULAR COSTS THE CLECS SHOULD PAY HAVE NO BEARING ON THE PRESENT PETITION.

The opposing comments filed by the ILECs are instructive in that they rely heavily on conclusions by the Commission in its Local Competition order to the effect that certain "cost onsets" should be recovered from the CLECs (see BA-NYNEX at 3-4; GTE at 5-9). But since the Commission (and almost all states subsequent to the Eighth Circuit's stay) has crafted principles and models intended to recover these costs through interconnection prices, the opposing comments serve only to underscore the fact US WEST is already being paid for these costs, and clearly should not be paid a second time. Furthermore, by submitting these claims in a classic historical cost format, rather than through the forward-looking cost modeling used by the Commission and almost all states in calculating interconnection costs, US WEST makes it virtually impossible to show how the amounts it seeks to recover are already being recovered through the cost models used to price interconnection agreements.

But, as explained above, the errors in the claims of the

ILECs concerning the kinds and quantities of costs that should be paid by CLECs for interconnection are simply not implicated in the present petition. They are firmly lodged at the Eighth Circuit currently, and ultimately with the agencies and reviewing courts that will be determined to have authority over such issues. The only present issue is whether there can be other recovery mechanisms outside those processes in any jurisdiction regardless of merits of the pricing decisions within those processes.[1]

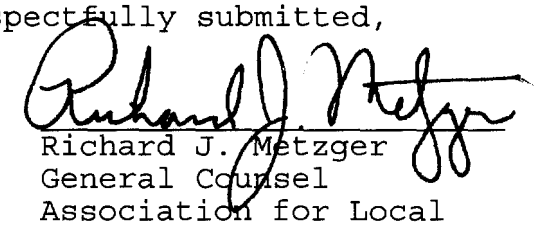
Whatever the outcome of the Section 251 and 252 process, it fully and finally bounds the prices that can be placed on CLECs as a result of their interconnection requests, whether in contract or in any regulatory forum. If US WEST believes it has unrecovered depreciation, "regulatory compacts," or any other theoretical amounts it thinks it is entitled to as a result of the introduction of competition, it must attempt to gain those amounts from its other ratepayers as it would in any ordinary general rate case.

[1] In this sense the processes of Section 251 and 252 are necessarily very different from the ordinary monopoly pricing approach encountered in state rate cases, where important rate elements are often priced on a "residual" basis.

CONCLUSION

For the foregoing reasons, ALTS requests that the Commission grant the petition for declaratory ruling and contingent petition for preemption.

Respectfully submitted,

By: 

Richard J. Metzger
General Counsel
Association for Local
Telecommunications Services
1200 19th Street, N.W.
Suite 560
Washington, D.C.
(202) 466-3046

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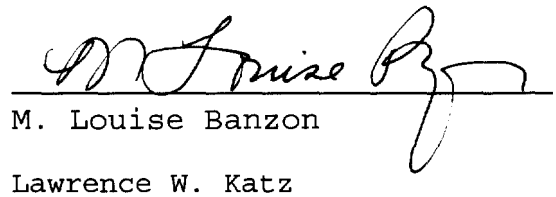
CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply Comments by the Association for Local Telecommunications Services was served April 28,1997, on the following persons by First-Class Mail or by hand service, as indicated.



M. Louise Banzon

Chief*
Competitive Pricing Division
FCC, 1919 M Street, Room 518
Washington, DC 20554

Robert B. McKenna
Attorney for US WEST, Inc.
Suite 700
1020 19th Street, N.W.
Washington, DC 20036

Al Kramer
Dickstein Shapiro Morin & Oshinsky
2101 L Street
Washington, DC 20037-1526

Mitchell F. Brecher
Robert E. Stup, Jr.
Fleischman & Walsh, L.L.P.
Suite 600
1400 Sixteenth St., N.W.
Washington, D.C. 20036

Casey D. Mahon
McLeod USA Telecom.Svcs.Inc
Senior VP & General Counsel
Suite 500
221 3rd Avenue, S.E.
Cedar Rapids, IA 52401

Daniel M. Waggoner
Richard L. Cys
Davis Wright Tremaine,L.L.P.
Suite 700
1155 Connecticut Ave., N.W.
Washington, DC 20036

ITS*
2100 M Street, N.W.
Washington, D.C. 20554

Lawrence W. Katz
Attorney for Bell Atlantic
1320 N. Court House Rd.
Eighth Floor
Arlington, VA 22201

William J. Balcerski
Attorney for NYNEX
1095 Avenue of the Americas
New York, NY 10036

Robert M. Lynch
Michale J. Zpevak
Attorneys for Southwestern Bell
One Bell Center, Suite 3518
St. Louis, MO 63101

Marlin D. Ard
Randall E. Cape
Attorneys for Pacific Bell and Nevada Bell
140 New Montgomery Street
San Francisco, CA 94105

Margaret E. Garber
Attorneys for Pacific Bell and Nevada Bell
1275 Pennsylvania Ave., NW
Washington, D.C. 20004

R. Michael Senkowski
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, DC 20006

* Hand Delivery